

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00030-MR**

BRANDON PICKENS,)	
)	
Plaintiff,)	
)	
vs.)	
)	
STEVEN HENDRICKS, et al.,)	<u>ORDER</u>
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on Plaintiff's "Response to Court Order" [Doc. 6], which is construed as a Motion for a partial refund of the filing fee and to proceed *in forma pauperis*.

Pro se incarcerated Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 and paid the full \$402 filing fee. [See Doc. 1]. The correctional institution where the Plaintiff is incarcerated was mailed an Order for Prisoner Trust Account Statement in error, as the Plaintiff has not moved to proceed *in forma pauperis*.¹ [See Doc. 4]. The Plaintiff now asserts that he should be refunded \$52 because the Order for Prisoner Trust Account Statement

¹ Attachment 1 to the Complaint was initially docketed as a Motion to Proceed *In Forma Pauperis*, but that docketing error has now been corrected. [See Doc. 1-1].

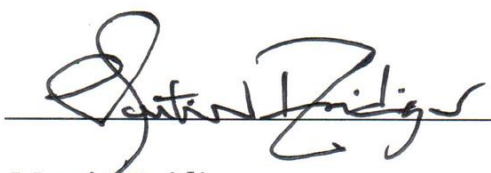
refers to a \$350 filing fee, and he also asserts that he is, in fact, seeking to proceed *in forma pauperis*.

The statutory filing fee of \$350 applies to prisoners who are granted leave to proceed *in forma pauperis*; they are not charged the Court's \$52 administrative fee. See 28 U.S.C. §§ 1914, 1915. The Plaintiff, however, has paid the filing fee in full and has not filed an application to proceed *in forma pauperis*. Therefore, the \$402 applies to him and no overpayment occurred. The Plaintiff's request for a \$52 refund is therefore denied. To the extent that the Plaintiff asks to proceed *in forma pauperis*, this request is denied because the Plaintiff has paid the filing fee in full; he has not filed an application to proceed *in forma pauperis*; and his Trust Fund Account Statement [Doc. 7] indicates that he has access to substantial funds.

IT IS, THEREFORE, ORDERED that Plaintiff's "Response to Court Order" [Doc. 6], which is construed as a Motion for a partial refund of the filing fee and to proceed *in forma pauperis*, is **DENIED**.

IT IS SO ORDERED.

Signed: March 29, 2021



Martin Reidinger
Chief United States District Judge

